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DIVISION OF PROFESSIONAL REGULATION

### **ADVANCED PRACTICE COMMITTEE Minutes (Approved June 30, 2014)**

The Advanced Practice Committee held a meeting on May 19, 2014 at 6:00 p.m., in Conference Room A, Cannon Building, 861 Silver Lake Boulevard, Dover, DE.

**PRESENT:** Ron Castaldo, Sandy Elliott, Delphos Price, Robert McKennett, Cindy Drew, Leslie Verucci, Jean Gallagher, Cindy Cunningham

**ABSENT:** Allen Prettyman, Candace Sandal, JoAnn Baker, Megan Williams

**GUESTS:** Sarah Carmody, Michele Savin, Reshma Singh, Ally Heiger, Michele Emery

**PRESIDING:** Delphos Price

**STAFF:** Pamela Zickafoose, Executive Director, Delaware Board of Nursing

**CALL TO ORDER:** Mr. Price called the meeting to order at 6:12 p.m. and apologized for the late start due to traffic.

**REVIEW OF MINUTES:** Mr. Castaldo noted two typographical errors in the minutes which Dr. Zickafoose will correct. Minutes from April 28, 2014 were reviewed. Ms. Cunningham made a motion to accept the minutes as corrected, seconded by Ms. Verucci. By majority vote, the motion carried with Ms. Drew abstaining.

#### **NEW BUSINESS:**

Mr. Price requested to modify the agenda by adding 3.1 Midwives Bill, 3.2 New Rules & Regs May 2014, and 5.0 Ms. Cunningham. Mr. Castaldo made a motion to accept the amended agenda, seconded by Ms. Gallagher. By unanimous vote the motion carried.

#### **Midwives Bill**

Mr. Price informed the committee that the Board of Nursing voted last Wednesday to not support HB 319 as currently written. This committee is being asked for their input regarding the bill. Ms. Elliott reported she recently attended a national meeting of the American College of Nurse-Midwives (ACNM) where the report from the US MERA was discussed with members of all the midwives groups present. However the Delaware Affiliate of the ACNM does not support HB 319 because it does not meet the educational requirements from the US-MERA group for CPMs .

She stated CNMs are not included in this bill, meaning not under the Council. Members of the DE Affiliate of the ACNM remain neutral as some are in favor and some are not. Ms. Elliott stated the three groups have learned a lot about each other and made significant strides over the past year. Ms. Verucci stated that CNMs have formal education and certification along with malpractice and the issue is with the CPMs. She also questioned where the baby is covered by this bill. Ms. Elliott stated there were two committees formed in DE and she was only on one. She confirmed she is in agreement about direct entry midwives not having a collaborative agreement but she is not in agreement with the education. Ms. Elliott also shared that the education of CPMs is somewhat misleading because they do get a certificate and their training is about 3 years in length. Mr. McKennett voiced his opinion that there is no purpose to this and he stated North Carolina had these same issues. Ms. Elliott stated she researched the history of midwives and the lay midwives started with the hippie movement in the 1960s. They were outside the mainstream and were there for the safety of mothers and their babies. She also stated that CNMs don't attend home births in DE because their collaborating physicians have resisted, mainly due to malpractice issues. Ms. Gallagher asked about the outcomes with home births. Ms. Elliott stated there is data that suggests DE would be safer if they were regulated.

Ms. Verucci stated the bill makes them into a type of "medical assistant" and Mr. McKennett added under the Board of Medical Licensure and Discipline "assistants" can do whatever the physicians want them to do. Anesthesia assistants were created so anesthetists could maintain control over them. Mr. Price stated that Mr. Mangler came to the BON meeting and informed the board there were essentially 3 things that the Board could do if they chose to take a position. The first was to oppose, but that if the Board was going to vote to oppose that other groups were choosing to identify which elements were at issue and offered language that would correct the issue; remain neutral; or support the bill. If voting to oppose, the Board could offer, like others, to identify the specific elements at issue and offer language that if incorporated might get them to move to a neutral position. He mentioned that CNMs can't get malpractice to do home births. Members then discussed whether this was an issue or not and Ms. Verucci added that APNs in DE can't get malpractice insurance without a collaborative agreement because of the statute. Ms. Elliott volunteered to explore insurance options for CNMs and members expressed interest in discussing this with the Insurance Commission when they attend this meeting.

Mr. Castaldo stated there are many alarms here with this bill, especially education and use of medications. Mr. Price stated there have been untoward outcomes in the past two years and if this continues and the bill passes and they have an adverse event outside the hospital, all the lay midwives do is call an ambulance. There is no liability. Ms. Elliott stated that HB420 criminalized their practice. Ms. Verucci stated this committee is present to advance the practice of APNs and suggested that CNMs be granted authority to do home births. Mr. McKennett asked what was wrong without this bill and Ms. Elliott replied that if they do a home birth they get a cease and desist order and are fined and may be sent to jail. It is believed this legislation is under appeal.

Ms. Ally Heiger stood from the audience and stated she was a RN and was actively working on the midwives bill HB 319. She stated that nine months ago the committee members for the bill did not agree on everything and now they agree on approximately 80%. She stated "this committee would be very wrong to not support this bill." She has two close friends who have had home births recently without a midwife but she was present with them as a friend. She is not trained as a midwife. Members discussed the choice to have a home birth as compared to going to a healthcare facility. The question of insurance was raised and Ms. Heiger stated that Representative Baumbach had an attorney present at a committee meeting who stated malpractice was not an issue. All APN Committee members disagreed with this comment and

stated that in malpractice cases the insurers do go after the person with the highest income. Ms. Carmody stated that insurance is driving the system and if the midwives can't get insurance who is taking responsibility for this. Ms. Elliott suggested the website [www.midwife.org/US-MERA](http://www.midwife.org/US-MERA) for more information on how the midwives are learning to work together, and she stated they have agreed on minimum educational requirements.

Ms. Sarah Carmody spoke from the audience and questioned how Ms. Heiger can say the data is not tainted when they don't have structured education. There was also data published in the Journal of Midwifery about the safety of midwives attending home births. Ms. Elliott stated that all midwives agreed to raise the standards in the future. Ms. Carmody informed the APN committee members that she and Karen Panunto met with Representative Baumbach and David Mangler last week. Ms. Carmody outlined several issues with the bill that were expressed during this meeting. They were also asked what it would take to get to a neutral position and one suggestion was that a public member be included in the Council who is a non-voting member. She also stated that the language – CPM – with the word “professional” is misleading. Finally, Ms. Carmody asked about the 35 licensed CNMs and removing barriers to their practice and representative Baumbach offered to consider future legislation.

Mr. McKennett made a motion that this committee not support HB 319 as written, seconded by Ms. Cunningham. By majority vote, the motion passed with Ms. Gallagher and Ms. Elliott abstaining. Mr. Price commented that the experts, meaning CNMs, should provide input and then bring any new language back to this committee and the Board for review.

Ms. Verucci made a motion to look at insurance issues for CNMs to be able to do home births and why expansion is not there since they already have the education, knowledge, certification. This motion was seconded by Ms. Elliott. By unanimous vote, the motion passed.

Mr. Castaldo stated he had a lack of understanding about the three types of midwives and their education. Ms. Elliott provided him with a handout from the ACNM website comparing all three. Ms. Drew asked if they charge a fee for delivery and Ms. Elliott confirmed they do charge and they can get malpractice insurance but it is very expensive. This item will be placed on the next meeting agenda.

#### **New Rules & Regs May 2014**

Dr. Zickafoose stated she received a few inquiries about the new rules in Section 8 for APN education and licenses. Specifically she asked if a gerontological nurse practitioner from PA could endorse into DE. Members discussed this issue. Ms. Verucci made a motion to allow endorsement until the deadline in the new rules, seconded by Ms. Gallagher. By unanimous vote the motion carried.

#### **UNFINISHED BUSINESS:**

##### **Consensus Model Education- Meetings with Stakeholders and Insurance Commission**

Mr. Castaldo reported three UD students provided information and would be willing to contact their legislators. He plans to start an excel spreadsheet as a mast listing. Mr. McKennett stated he has already started such a spreadsheet from the DONL information and he would share that with Mr. Castaldo in the next couple of weeks after he finishes adding names and contact information.

Mr. Castaldo reminded the committee that the last two weeks of May the legislature is recessed and will begin again in June. At this time it is recommended to continue the one on one meetings rather than a large group meeting. However, when the 148<sup>th</sup> session begins we should

have a group meeting which will require some financial support for a small lunch. Ms. Verucci stated Dr. Prettyman is the chair of the APN committee for the DNA and perhaps he could contact Karen McDonald and ask her to communicate this need at CCHS. Mr. Castaldo stated it is important to continue to use the time from June until November even though some legislators may change after the elections. Mr. Price agreed it is important to meet with them face to face and to keep educating them about the Consensus Model. Ms. Verucci reminded members that the DNA bus trip to Washington, DC is next week and they will talk with our legislators.

#### **Insurance Commission**

Mr. Castaldo continues to communicate with representatives from the Insurance Commission and is hopeful they will attend our meeting in June or July. He read information from Linda Nemes, Assistance Director Market Regulation Delaware Department of Insurance from Title 18 Chapter 23 §2318. Coverage for payment of services provided by advanced practice nurses. This states "No health insurer, health service corporation or health maintenance organization shall deny benefits for eligible services when the serviced are rendered or performed by an advanced practice nurse as long as said advanced practice nurse acts within the scope of practice and/or definitions pursuant to title 24. Any contract of insurance issued or issued for delivery in the State by health insurers, health service corporations or health maintenance organizations shall not exclude advanced practice nurses as providers of services covered in the contract." Members thanks Mr. Castaldo for his persistence.

#### **Meeting with Dr. Fan**

Mr. Price and Dr. Zickafoose are scheduled to meet on May 28<sup>th</sup> with Dr. Fan for a breakfast meeting to discuss the Consensus Model.

#### **Legislative Outreach- Meetings with Legislators**

See above

#### **Statute and Regulations**

Regulations were covered above. The committee will review the proposed changes to the bill next month.

#### **OTHER BUSINESS (for discussion only):**

##### **Statutory Changes- Composition of the Board**

Mr. Castaldo reported that the bill was introduced (HB 335) and will possibly have a hearing June 4<sup>th</sup>. Dr. Zickafoose will email the committee members regarding the hearing schedule. All members were encouraged to attend these meetings if able to do so.

Ms. Verucci informed the members that the DNA trip to the Blue Rocks for Nurses Night is tomorrow and they will be throwing the first pitch as well as having a table for basic nursing information.

**PUBLIC COMMENT:** Michele Savin NNP at CCHS and NP student spoke about the midwives bill and stated she supported the committee's decision to not support the bill as written. She suggested deleting the language where the Council can wipe away the educational requirement because this is most controversial as worded. She stated she attended two deliveries in the hospital and she resuscitated the baby. She then questioned how a CPM could choose between caring for the mother or the baby in a home setting, adding the baby is not considered in this bill. She also suggested adding neonatal resuscitation as a requirement in the bill. She thanked the committee for their hard work.

Ms. Heiger stated she wanted to address the comment about the mother and baby saying no midwife

shows up for delivery alone. They bring another midwife with oxygen and they are all trained in healthcare provider classes. She stated she was dismayed by this committee going this route. It hurts the mothers and babies in this state. No one thinks it is safer to have these births unattended. If licensure does not happen, the numbers are going to get much worse. She concluded by saying she was sure we could make changes with the bill and it would be great to get to a neutral position with the bill.

**NEXT MEETING – June 30, 2014 in Newark.**

**ADJOURNMENT** – The meeting was adjourned at 8:05 p.m.

Respectfully Submitted,

A handwritten signature in black ink that reads "Pamela C. Zickafoose". The signature is written in a cursive, flowing style.

Pamela C. Zickafoose, EdD, MSN, RN, NE-BC, CNE  
Executive Director, Delaware Board of Nursing